

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1036

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AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 12-7-2-98.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 98.2. "Group size", for purposes of IC 12-17.2-3.5, means the number of children who routinely work, learn, eat, sleep, and play together inside and outside a facility where a provider operates a child care program.**

SECTION 2. IC 12-17.2-3.5-4, AS AMENDED BY P.L.225-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) A provider is ineligible to receive a voucher payment if the provider:

(1) has been convicted of a:

(A) felony:

- (i) related to the health or safety of a child;
- (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
- (iii) that is a dangerous felony; or
- (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) misdemeanor related to:

- (i) the health or safety of a child; or



- (ii) welfare fraud;
- (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
- (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;
- (2) allows an individual who has been convicted of a crime specified under subdivision (1) to reside with the provider, if the provider operates a child care program in the provider's home;
- (3) employs an individual or allows an individual to volunteer who:
  - (A) has direct contact with a child who is receiving child care from the provider; and
  - (B) has been convicted of a crime specified in subdivision (1);
- (4) has had a revocation of eligibility under this chapter during the immediately preceding two (2) years; or
- (5) fails to meet the requirements of this chapter.
- (b) A provider whose:
  - (1) license under IC 12-17.2-4 or IC 12-17.2-5; or
  - (2) compliance with this chapter;
 is subject to an enforcement action is ineligible to receive a voucher payment, regardless of whether the provider meets the requirements of this chapter, until the outcome of any proceeding under IC 4-21.5 reflects a final determination that the provider's license or eligibility is in good standing.
- (c) If the division decertifies a provider under this chapter, the provider:
  - (1) may reapply for eligibility to receive a voucher payment at any time that the provider is able to demonstrate compliance with this chapter; and
  - (2) is not eligible to receive a voucher payment under this chapter until the provider receives notice from the division that the provider's application under subdivision (1) has been approved.
- (d) In determining whether a provider meets the requirements of this chapter, the division may not consider religious instruction or activities.**

SECTION 3. IC 12-17.2-3.5-5, AS AMENDED BY P.L.225-2013,



SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A provider shall have:

- (1) working smoke detectors that meet the standards adopted by rule for smoke detectors in licensed child care homes; and
- (2) hot and cold running water;

in the area of the facility where the provider operates a child care program.

(b) A provider shall meet sanitation standards for bathrooms and handwashing, as established by the division.

**(c) Beginning July 1, 2015, a provider shall have, and maintain compliance with, a written policy describing the practice of the provider concerning the following:**

- (1) Safe conditions in the facility and on the grounds.**
- (2) Safety of motor vehicles used to transport children.**

**(d) At the time a provider establishes the written policy required by subsection (c), and at the time of any subsequent change to the written policy, the provider shall:**

- (1) file with the division;**
- (2) post in a public location in the facility where the provider operates a child care program; and**
- (3) provide to the parent or guardian of each child in the care of the provider;**

**a copy of the written policy or change. The written policy required by subsection (c) is not subject to approval by the division.**

**(e) Beginning July 1, 2015, a provider shall make available daily activities appropriate to the age, developmental needs, interests, and number of children in the care of the provider, including the following:**

- (1) Both active and quiet play. The provider may include the use of safe, age-appropriate toys, games, and equipment for indoor and outdoor play.**
- (2) Daily outdoor play, unless one (1) of the following applies:**
  - (A) Severity of the weather poses a safety or health hazard.**
  - (B) A health related reason for a child to remain indoors is documented by the child's parent, guardian, or physician.**

**(f) Beginning July 1, 2015, a provider shall make available to each child in the provider's care the following:**

- (1) Appropriately timed, nutritious meals and snacks in a quantity sufficient to meet the needs of the child.**
- (2) Drinking water at all times.**

**(g) The division may make available to a provider educational materials related to quality of child care, as follows:**



- (1) The materials are available at no cost to the provider.**
- (2) The materials are appropriate to the ages of children cared for by the provider.**
- (3) The materials are current.**
- (4) The materials are available electronically.**
- (5) Use of the materials by the provider is voluntary.**

SECTION 4. IC 12-17.2-3.5-5.5, AS AMENDED BY P.L.225-2013, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5.5. (a) A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.

(b) A provider ~~who~~ **that** cares for children who are less than twelve (12) months of age shall:

- (1) complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices; and
- (2) ensure that all caregivers of children who are less than twelve (12) months of age follow safe sleeping practices.

**(c) After June 30, 2015, a provider that cares for:**

**(1) not more than sixteen (16) children at a facility where the provider operates a child care program shall maintain:**

- (A) a ratio of children to caregivers in the same proportions as specified in the child to staff ratio requirements; and**
- (B) the same group sizes as specified in the group size requirements;**

**that apply to a child care home under IC 12-17.2-5; and**

**(2) more than sixteen (16) children at a facility where the provider operates a child care program shall maintain:**

- (A) a ratio of children to caregivers in the same proportions as specified in the child to staff ratio requirements; and**
- (B) the same group sizes as specified in the group size requirements;**

**that apply to a child care center under IC 12-17.2-4.**

SECTION 5. IC 12-17.2-3.5-8, AS AMENDED BY P.L.225-2013, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a provider shall be present at all times when a child is in the care of the provider.

(b) The following apply to an individual who is employed or



volunteers as a caregiver at a facility where a provider operates a child care program:

(1) The individual shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.

(2) If the individual is:

(A) at least eighteen (18) years of age, the individual may act as a caregiver without supervision of another caregiver; or

(B) less than eighteen (18) years of age, the individual may act as a caregiver only if the individual:

(i) is at least fourteen (14) years of age; and

(ii) is, at all times when child care is provided, directly supervised by a caregiver who is at least eighteen (18) years of age.

~~(3) The provider must verify that an employee or a volunteer has received training concerning child abuse detection and prevention.~~

~~(4)~~ (3) Before beginning employment or volunteer duties, the individual must receive a formal orientation to the facility and the child care program.

**(4) Beginning July 1, 2015, unless the provider is a parent, stepparent, guardian, custodian, or other relative to each child in the care of the provider, the individual annually must receive at least twelve (12) hours of continuing education approved by the division and related to the age appropriate educational development, care, and safety of children. The hours of continuing education required by this subdivision may include the training described in this chapter concerning child abuse detection and prevention, first aid, cardiopulmonary resuscitation, and safe sleeping practices.**

**(5) Not more than three (3) months after the individual begins employment or volunteer duties, the individual must receive training approved by the division concerning child abuse detection and prevention.**

(c) A provider shall:

(1) maintain at the facility where the provider operates a child care program documentation of all training **and completion of continuing education** required by this section; and

(2) make the documentation available to the division upon request.

SECTION 6. IC 12-17.2-3.5-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 8.5. (a) A provider shall provide**



to all employees and volunteers of the provider the written material prepared and made available by the division under subsection (c).

(b) An employee or a volunteer of a provider who has reason to believe that a child in the provider's care is a victim of child abuse or neglect shall make a report as required under IC 31-33-5.

(c) The division shall do the following:

(1) Prepare written material specifying the following:

(A) The duty to report known or suspected child abuse or neglect under IC 31-33-5.

(B) That knowing failure to make a report required by:

(i) IC 31-33-5-1; or

(ii) IC 31-33-5-2;

is a Class B misdemeanor under IC 31-33-22-1.

(2) Make the written material under subdivision (1) available to providers.

SECTION 7. IC 12-17.2-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) A provider shall have at least one (1) working telephone in each facility where the provider operates a child care program.

(b) A provider shall, in each facility where the provider operates a child care program, have a communication device (which may be the telephone required by subsection (a)) that is:

(1) approved by the division; and

(2) compatible with an automated time and attendance tracking system approved by the division.

SECTION 8. IC 12-17.2-3.5-16, AS ADDED BY P.L.225-2013, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) The division may, according to rules adopted under IC 4-22-2, decertify a provider for any of the following reasons:

(1) The provider fails to comply with this chapter.

(2) The provider refuses to allow, during normal business hours, the division or an agent of the division to inspect the facility where the provider operates a child care program.

(b) A provider is ineligible, and the division may revoke for a period of not less than two (2) years from the date on which a final determination is made under IC 4-21.5 a provider's eligibility, to receive a voucher payment under this chapter for any of the following reasons:

(1) The provider is determined by the division to have made false statements in the provider's:



- (A) application for eligibility to receive a voucher payment; or
- (B) records required by the division;

under this chapter.

- (2) Credible allegations of fraud have been made against the provider, as determined by the division.
- (3) Criminal charges of welfare fraud have been filed against the provider.
- (4) Allegations of welfare fraud committed by the provider have been substantiated by the division.

SECTION 9. IC 12-17.2-3.5-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 19. (a) A provider shall immediately notify the parent or legal guardian of a child in the care of the provider concerning any of the following that occur during the hours that the child is in the care of the provider:**

**(1) A:**

- (A) bodily injury (as defined in IC 35-31.5-2-29); or**
- (B) serious bodily injury (as defined in IC 35-31.5-2-292); of the child that requires the attention of a physician, dentist, registered nurse, licensed practical nurse, paramedic, or emergency medical technician.**

**(2) The death of the child.**

**(b) A provider shall:**

- (1) not more than twenty-four (24) hours after the occurrence of an incident described in subsection (a)(1); and**
- (2) immediately after the occurrence of an incident described in subsection (a)(2);**

**notify the division of the occurrence of the incident.**

**(c) Information that:**

- (1) is obtained under subsection (b);**
- (2) concerns a bodily injury or serious bodily injury described in subsection (a)(1); and**
- (3) could be used to identify an individual child;**

**is confidential.**

SECTION 10. IC 16-38-5-3, AS AMENDED BY P.L.122-2012, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3. (a) Records maintained as part of the immunization data registry are confidential.**

**(b) The state department may release information from the immunization data registry to the individual or to the individual's parent or guardian if the individual is less than eighteen (18) years of age.**



(c) Subject to subsection (d), the state department may release information in the immunization data registry concerning an individual to the following persons or entities:

- (1) The immunization data registry of another state.
- (2) A provider or a provider's designee.
- (3) A local health department.
- (4) An elementary or secondary school that is attended by the individual.
- (5) A child care center that is licensed under IC 12-17.2-4 in which the individual is enrolled.
- (6) A child care home that is licensed under IC 12-17.2-5 in which the individual is enrolled.**
- (7) A child care ministry that is registered under IC 12-17.2-6 in which the individual is enrolled.**
- ~~(6)~~ **(8)** The office of Medicaid policy and planning or a contractor of the office of Medicaid policy and planning.
- ~~(7)~~ **(9)** A child placing agency licensed under IC 31-27.
- ~~(8)~~ **(10)** A college or university (as defined in IC 21-7-13-10) that is attended by the individual.

(d) Before immunization data may be released to a person or an entity, the person or entity must enter into a data use agreement with the state department that provides that information that identifies a patient will not be released to any other person or entity without the written consent of the patient unless the release is to a person or entity described in subsection (c).

(e) The state department may release summary statistics regarding information in the immunization data registry to a person or entity that has entered into a data use agreement with the state department.





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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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